

In the Supreme Court of the United States

OCTOBER TERM, 1947

No. 533

TORAO TAKAHASHI, PETITIONER

v.

FISH AND GAME COMMISSION, LEE F. PAYNE, AS
CHAIRMAN THEREOF, W. B. WILLIAMS, HARVEY
E. HASTAIN, AND WILLIAM SILVA, AS MEMBERS
THEREOF

ON PETITION FOR A WRIT OF CERTIORARI TO THE
SUPREME COURT OF CALIFORNIA

MEMORANDUM FOR THE UNITED STATES AS AMICUS CURIAE IN SUPPORT OF THE PETITION FOR A WRIT OF CERTIORARI

The United States respectfully urges the Court to grant the petition for certiorari which has been filed in this case.

The petition presents substantial constitutional issues of national importance, affecting the fundamental civil rights of a large number of persons. The specific questions involved relate to the constitutionality of Section 990 of the Fish and Game Code of California, as amended in 1945 to provide that commercial fishing licenses may be

issued only to persons other than those "ineligible to citizenship". In *Truax v. Raich*, 239 U. S. 33, 41, it was held that the Constitution forbids a State "to deny to lawful inhabitants, because of their race or nationality, the ordinary means of earning a livelihood". The Court emphasized that "the right to work for a living in the common occupations of the community is of the very essence of the personal freedom and opportunity that it was the purpose of the [Fourteenth] Amendment to secure". *Ibid.* If the petition for certiorari should be granted in the present case, the Government will contend, as *amicus curiae*, that the challenged provision of the Fish and Game Code of California cannot be reconciled with the principles applied by this Court in *Truax v. Raich*, *supra*, and other cases. Cf. *Yick Wo v. Hopkins*, 118 U. S. 356; *Oyama v. California*, No. 44, October Term, 1947, decided January 19, 1948.

For these reasons, the Government respectfully submits that the petition for certiorari presents questions warranting review by this Court, and should be granted.

✓ TOM C. CLARK,
Attorney General.

✓ PHILIP B. PERLMAN,
Solicitor General.

FEBRUARY 1948.

